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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
RAMSEY EMERGENCY SERVICE, INC.)
) No. 04-0406
Application for a certificate)
of local authority to operate)
as a provider of)
telecommunications services in)
all areas in the State of)
Illinois.)

Chicago, Illinois
August 6, 2004

Met pursuant to notice at 10:00 a.m.

BEFORE:

MR. JOHN RILEY, Administrative Law Judge

1 APPEARANCES:

2 RICHARD W. HIRD, P.A., by
MR. RICHARD W. HIRD
3 11900 College Boulevard, Suite 310
Overland Park, Kansas 66210
4 Appearing for Applicant
(telephonically);
5

6 MS. NANCY HERTEL
225 West Randolph Street, Suite 25-D
Chicago, Illinois 60606
7 Appearing for SBC Illinois;

8 MR. MATTHEW HARVEY and
MR. ERIC MADIAR
9 160 North LaSalle Street, Suite C-800
Chicago, Illinois 60601
10 Appearing for Staff;

11 MR. DOUGLAS DOUGHERTY
300 East Monroe Street, Suite 306
12 Springfield, Illinois 62701
Appearing for Illinois
13 Telecommunications Association;

14 BROWN, HAY & STEPHENS, by
MR. DON WOODS
15 205 South Fifth Street
Springfield, Illinois 62705
16 Appearing for Illinois
Telecommunications Association
17 (telephonically);

18 KAUFHOLD & ASSOCIATES, P.C., by
MR. KEVIN C. KAUFHOLD
19 5111 West Main Street, Lower Level
Belleville, Illinois 62226
20 Appearing for St. Clair County and NTSB
(telephonically);
21
22

1 MR. BOB KOCH and
2 MS. MARCI SCHROLL
3 527 East Capitol Avenue
4 Springfield, Illinois 62701
5 Appearing for Staff
6 (telephonically).
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21 SULLIVAN REPORTING COMPANY, by
22 Julia C. White, CSR
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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Examiner</u>
None.					

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
None.		

1 JUDGE RILEY: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call Docket
3 04-0406. This is an application by Ramsey Emergency
4 Service, Incorporated, for a certificate of local
5 authority to operate as a provider of
6 telecommunications services in all areas of the State
7 of Illinois.

8 Beginning with Counsel for the
9 Applicant, would you enter an appearance.

10 MR. HIRD: Yes, your Honor, Richard W. Hird,
11 Overland Park, Kansas, for the Applicant, Ramsey
12 Emergency Services, Incorporated.

13 JUDGE RILEY: And I'm sorry. Please state your
14 office address.

15 MR. HIRD: My office address is 11900 College
16 Boulevard, Suite 310, Overland Park, Kansas 66210.

17 JUDGE RILEY: Thank you.

18 And let's begin with -- continue with
19 SBC.

20 MS. HERTEL: Appearing on behalf of SBC
21 Illinois, Nancy Hertel, H-e-r-t-e-l, 225 West
22 Randolph, 25D, Chicago, Illinois 60606.

1 JUDGE RILEY: Thank you.

2 And Staff, go next.

3 MR. HARVEY: Appearing for the Staff of the
4 Illinois Commerce Commission, Matthew L. Harvey and
5 Eric M. Madiar, M-a-d-i-a-r, 160 North LaSalle
6 Street, Suite C-800, Chicago, Illinois 60601-3104,
7 (312)793-2877.

8 JUDGE RILEY: Thank you.

9 And for the intervenor -- the Illinois
10 Telephone (sic) Association.

11 MR. DOUGHERTY: Yes. Appearing on behalf of
12 the Illinois Telecommunications Association, Douglas
13 Dougherty, D-o-u-g-h-e-r-t-y, 300 East Monroe Street,
14 Suite 306, Springfield, Illinois 62701.

15 And I have -- Counsel is appearing by
16 phone.

17 MR. WOODS: Yes, your Honor. Don Woods and
18 Scott Helmholtz, H-e-l-m-h-o-l-z, Brown, Hay &
19 Stephens, 205 South Fifth Street, Springfield,
20 Illinois 62705.

21 JUDGE RILEY: Thank you.

22 And for St. Clair County.

1 MR. KAUFHOLD: Yes. My name is Kevin Kaufhold.
2 I'm the attorney for St. Clair County, NTSB. The
3 address is 5111 West Main, Belleville, Illinois
4 62226.

5 JUDGE RILEY: Thank you.

6 And what is the basis of -- let me ask
7 this first: Has everyone entered an appearance?

8 Okay. Mr. Kaufhold, what is the basis
9 of St. Clair County's petition for leave to
10 intervene?

11 MR. KAUFHOLD: Well, Judge, we're a public
12 safety, you know, organization; and we have knowledge
13 in Michael Ramsey's activities -- some of his
14 activities, and we'd like to present testimony on --
15 on that basis. We have a public interest of concerns
16 here.

17 JUDGE RILEY: Is St. Clair County intervening
18 in opposition to -- to the application.

19 MR. KAUFHOLD: No, we're not. We're not
20 intervening an opposition to the application, no.

21 JUDGE RILEY: All right. Well, let's get
22 responses. SBC?

1 MS. HERTEL: Your Honor, we would not object to
2 the intervention so long as they are bound by the
3 same conditions that you imposed on the other
4 intervenors at the last status hearing; and that
5 would be that they can find themselves to the
6 technical, managerial, financial capabilities for
7 which the Applicant is seeking a certificate.

8 JUDGE RILEY: ITA, any response?

9 MR. DOUGHERTY: Yeah. We would agree with SBC.

10 JUDGE RILEY: And Staff?

11 MR. HARVEY: That's eminently reasonable, your
12 Honor. We concur.

13 JUDGE RILEY: Okay. Mr. Hird?

14 MR. HIRD: I certainly have no objection, your
15 Honor.

16 JUDGE RILEY: Okay. Then as long as everybody
17 is pleased by the same rules, the petition for leave
18 to intervene filed by St. Clair County is granted.

19 And now let's -- I'm going to turn to
20 Staff and ask what -- we were originally scheduled to
21 go to hearing today, and I have reduced this matter
22 to a status because Staff has -- well, I'm going to

1 characterize them as some concerns?

2 MR. HARVEY: Well, at this point, your Honor,
3 we were -- we were chiefly concerned with, as we
4 discussed yesterday, issues associated with late
5 filing of -- of testimony and some other procedural
6 matters -- and, again, as discussed yesterday.

7 In the interim, we did have a
8 conversation about procedural matters with Counsel
9 for the Applicant; and he suggests, and I think to
10 some extent, we -- we find, in common ground, a
11 procedure whereby he would -- well, as you know, some
12 of our prefile direct testimony was -- was concerned
13 with what the Staff perceived to be inadequate or
14 nonresponsive answers by the Applicant to -- certain
15 of Staff's data requests.

16 Counsel for the Applicant has
17 undertaken to supplement -- or will supplement -- and
18 gets us to you understand that that's what he'll
19 do -- the data requests that were, you know,
20 specifically identified, I guess, in Staff's
21 testimony in the hopes that -- that if further light
22 were shed on these issues, it might change Staff's

1 position. And while we, of course, can't, you know,
2 guarantee that to be the case, we certainly would
3 val -- you know, find that information valuable and
4 perhaps would, you know, be in a position to file
5 some supplemental testimony or other testimony to --
6 that -- that would perhaps change our position. I
7 mean, we obviously can't make that -- you know, and
8 other parties were obviously -- you know, were
9 similarly situated.

10 JUDGE RILEY: Are you requesting that they file
11 supplemental answers to the data requests?

12 MR. HARVEY: We certainly are requesting it.
13 And as I understand the Applicant's position, they
14 are willing to undertake that.

15 JUDGE RILEY: Have you communicated this to
16 Mr. Hird?

17 MR. HARVEY: Mr. Madiar and Mr. Hird discussed
18 it this morning.

19 JUDGE RILEY: Okay. And Mr. Hird, what's your
20 response?

21 MR. HIRD: Your Honor, we are wanting to -- the
22 opportunity to do just that -- to supplement answers

1 to data requests. There were some other components
2 of what we discussed this morning that would fit hand
3 in hand with that.

4 MR. HARVEY: Yeah. That's -- I was getting
5 there in my own --

6 JUDGE RILEY: Okay.

7 MR. HARVEY: -- obtuse way.

8 Perhaps in the -- perhaps in the
9 interest of brevity, Mr. Hird should continue this
10 discussion. I seem not to be my usual lucid self
11 this morning, Judge.

12 JUDGE RILEY: Okay. Mr. Hird can you
13 elaborate?

14 MR. HIRD: Yes, your Honor.

15 The principle objections raised by
16 Staff, I think, had to do with the lack of -- of
17 responses with regard to financial matters.
18 Primarily, it was related to business plans,
19 financial objections -- or projections -- that sort
20 of thing.

21 What I suggested to Mr. Madiar and
22 what -- what I would propose to your Honor, is that

1 No. 1, we would be given a relatively brief amount of
2 time to supplement our answers to data requests; that
3 No. 2, during the interim, that I would discuss with
4 Staff portions of Mr. Ramsey's rebuttal testimony
5 that they find objectionable.

6 As you might recall yesterday, I
7 believe Mr. Harvey alluded to the fact that Staff was
8 going to file motions was regard to that testimony.
9 I don't know what those motions are yet, but I would
10 like to have the chance to talk with him about the
11 possibility of reaching some agreement on that.

12 Secondly, in regard to the financial
13 matters, Mark Hickson, who is the chief financial
14 officer of the applicant, I think is more properly
15 the person to address these issues.

16 So what I would suggest is that No. 1,
17 we supplement answers to data requests. No. 2, that
18 we file amended testimony for Michael Ramsey and
19 rebuttal testimony of Mark Hickson, the CFO. And,
20 finally, after those are filed, Staff, I'm sure,
21 wants a chance to respond by way of surrebuttal
22 testimony.

1 JUDGE RILEY: Is that true, Staff?

2 MR. HARVEY: I think that the interests of --

3 you know, fairness, obviously, to the other parties

4 would have to be permitted to file surrebuttal

5 testimony.

6 JUDGE RILEY: That was my next question.

7 MR. HARVEY: Yeah. I guess that that would,

8 maybe, you know -- you know, I can't sit here and

9 agree -- to be the only person that gets to --

10 JUDGE RILEY: No. I understand.

11 MS. HERTEL: No. Your Honor, if Staff and the

12 Applicant want to do the supplemental answers, I've

13 only heard Mr. Hird refer to financial. However, I'm

14 not sure what all they may choose to supplement; and

15 we would want the right -- once we see what they

16 filed, we want the right to respond to this new piece

17 of testimony they're putting in and based on the

18 amended answers to the discovery requests.

19 JUDGE RILEY: Well, I'm fully aware that the

20 intervenors have all the rights of the other parties.

21 So --

22 MR. HARVEY: Yeah.

1 JUDGE RILEY: So yeah. That would be a -- that
2 would be a given.

3 My only question would be is the
4 amount of time for the response. I would pretty much
5 want everybody to respond at the same time --

6 MR. HARVEY: Yeah.

7 JUDGE RILEY: -- on file. You know --

8 MS. HERTEL: Are we really starting over? I
9 mean -- if we're filing amended testimony, I mean,
10 should we just -- shouldn't we perhaps -- I don't
11 mean to start over, over; but I mean -- but obviously
12 the petition is out there.

13 But I mean, aren't we in essence -- I
14 mean, I don't know what the intention is. Would you
15 withdraw the earlier testimony?

16 MR. HARVEY: Well --

17 JUDGE RILEY: My understanding is this is going
18 to be supplemental.

19 MR. HARVEY: Yeah. What we -- you know, what
20 we would -- I would anticipate supplementing it.

21 And I think, to be honest with you,
22 the way I would recommend we proceed is probably a

1 little different from what Mr. Hird would -- would
2 suggest just because I think it might a little easier
3 to do if -- I think, first of all, that the Applicant
4 has to have the last laugh here so to speak. They do
5 get -- it's their burden.

6 So they, you know, seem to have the
7 right to go last; and, you know, if -- well, maybe --
8 maybe I should just stop speculating on the record
9 and -- you know, if we could maybe have an
10 opportunity to supplement or -- you know, Ramsey
11 files -- we have an -- whatever they're going to
12 file, including, I guess, the Hickson testimony and
13 the -- whatever revisions to Mr. Ramsey's testimony.

14 We would file supplemental along with
15 intervenors and, I guess, Applicant could go -- you
16 know, have one more round at their election, you
17 know.

18 JUDGE RILEY: Any objections to that? I
19 mean how -- I --

20 MS. HERTEL: My outlook is slightly confused.

21 What you would envision that someday
22 they supplement their data responses --

1 MR. HARVEY: And file additional --

2 MS. HERTEL: -- and the next day they do --

3 yeah, the amended testimony. And an additional piece

4 of Mr. -- or at the same time or rebuttal?

5 MR. HARVEY: Well, I think they want to get

6 their CFO in, which is probably -- you know, since

7 their financial issue is outstanding, I guess that

8 makes sense.

9 MS. HERTEL: And then intervenors would

10 respond --

11 MR. HARVEY: Yeah.

12 MS. HERTEL: -- Staff would respond.

13 MR. HARVEY: Staff and intervenors would

14 respond, and I think we've got to let them go last.

15 You know, we always let you go last when you have the

16 burden, Nancy.

17 MS. HERTEL: Thank you.

18 JUDGE RILEY: And do the intervenors give them

19 one more round after the --

20 MR. HARVEY: Yeah. After we file supplemental.

21 JUDGE RILEY: And after -- and --

22 MR. HARVEY: Yeah. I mean, they could

1 obviously elect not to file anything. But it's
2 certainly -- as it's their burden, it's their -- you
3 know --

4 JUDGE RILEY: Okay. Mr. Hird?

5 MR. HIRD: Yes, your Honor?

6 JUDGE RILEY: What's your response to this
7 loose schedule right now?

8 MR. HIRD: I think that as long as -- well, two
9 things:

10 In theory, I have absolutely no
11 objection to what has been proposed. In fact, I
12 would concur in it.

13 JUDGE RILEY: Okay.

14 MR. HIRD: I do think that, if you'll recall,
15 the intervention of SBC and the ITA was initially
16 granted with the provision that their intervention
17 would not cause a delay in this matter; and I think
18 you were very clear in that.

19 So I do want to keep the time schedule
20 such that the intervenors are required to file at the
21 same time or no later than Staff.

22 JUDGE RILEY: No, I would -- there would be --

1 there would be concurrent filings. Absolutely.

2 MR. HIRD: Okay.

3 JUDGE RILEY: Yeah. We won't drag it out
4 beyond that.

5 MR. HIRD: Well, then what I would -- what I
6 would propose is that by the middle of next week that
7 the interv- -- that the Applicant file its amended --
8 its supplemental data request responses and amended
9 Ramsey testimony and rebuttal Hickson testimony that
10 the Staff and intervenors have an appropriate amount
11 of time to digest that and file supplemental rebuttal
12 testimony. And that finally Ramsey would be given a
13 chance to file -- I guess it would be surrebuttal
14 testimony after that.

15 JUDGE RILEY: Okay.

16 MR. HARVEY: Okay. So --

17 JUDGE RILEY: It sounds like a pretty tight
18 schedule. When you say "the middle of next week,"
19 that -- that literally is the 11th.

20 MR. HIRD: Well, your Honor, I -- I don't know
21 how much -- the only -- the only wild card in this
22 from our standpoint is how much time Staff and the

1 intervenors will need to file their supplemental.

2 JUDGE RILEY: Okay. Are you saying that the --
3 that the Applicant can get its filings in by the
4 11th?

5 MR. HIRD: Can we make it the 12th?

6 MR. HARVEY: Sure.

7 JUDGE RILEY: Sure.

8 MR. HIRD: And this time, it will be in their
9 hands on the 12th.

10 MR. MADIAR: Okay.

11 JUDGE RILEY: Yeah. All right.

12 MS. HERTEL: Mr. Hird, you can always -- even
13 if you -- even if you have an e-Docket available -- I
14 don't know whether you have a computer or an
15 e-Docket.

16 But a lot of times what happens is,
17 for example, SBC Illinois does not typically file its
18 testimony on e-Docket and only files it after the
19 hearing. You can probably just service
20 electronically.

21 MR. HARVEY: Yeah. We -- we almost -- people
22 that are as messy as I am like to be served

1 electronically.

2 MR. HIRD: Well, I appreciate that; and we made
3 every attempt to do that with our rebuttal testimony.
4 However, for whatever reason, my -- my outgoing mail
5 server wouldn't accept the PDF files, and I was
6 unsuccessful in getting it done. It was my fault to
7 do exactly that.

8 MR. HARVEY: And you can serve us in Word, too,
9 for whatever, you know, you have.

10 MR. HIRD: Okay.

11 MR. KOCH: This is Bob Koch of Staff, if I
12 could.

13 JUDGE RILEY: Yeah. Go ahead, Bob.

14 MR. KOCH: Yes. I am out next week. I won't
15 be returning until August 16th. If that helps in any
16 way as far as --

17 JUDGE RILEY: Well, your attorneys are going to
18 have -- need a few days to digest the information
19 under any circumstances and prepare their own
20 testimony.

21 MS. HERTEL: My witness is on a prepaid family
22 vacation taking his five year old to Disney World

1 from 6th -- leaving the 14th returning the 21st.

2 JUDGE RILEY: Okay.

3 MR. HARVEY: Okay. Well, let's -- let's see.

4 What do we have here? We've got --

5 MR. KOCH: I'm sorry, but I couldn't hear

6 Mrs. Hertel.

7 MS. HERTEL: Oh, I'm sorry. My -- our witness

8 has a prepaid family vacation going do Disney World.

9 He's leaving Saturday, the 14th, returning the 21st.

10 MR. KOCH: Your witness? I'm sorry.

11 MS. HERTEL: Yeah, my witness.

12 MR. KOCH: Oh, okay.

13 MS. HERTEL: Mr. Valentine is on the phone.

14 JUDGE RILEY: So what we're saying then, the

15 week of the 16th -- let's go the week of the 23rd for

16 these responses.

17 MR. HARVEY: Well, we're ready. I think we

18 could do any day that week. I would --

19 JUDGE RILEY: Why don't we go to the 26th?

20 That's two weeks exactly from the date of the

21 Applicant's filings.

22 MS. HERTEL: Could we make it the 27th -- can

1 we do the 13th and the 27th?

2 JUDGE RILEY: Just do the end of the week?

3 Is that all right with you, Mr. Hird?

4 MR. HIRD: Well, I guess if we can't move it
5 back into the week of the 16th, I mean, I guess; but
6 I'm -- I'm concerned that we're going to be going
7 another month here.

8 JUDGE RILEY: Well --

9 MR. HIRD: If we're going to -- If we're going
10 to do it on the 27th, then could I request that we
11 provide our data request responses and amended
12 testimony by Friday the 13th instead of the 12th?

13 JUDGE RILEY: All right.

14 MR. HARVEY: That's ominous, Mr. Hird; but you
15 can certainly do that.

16 JUDGE RILEY: Okay. 13th. Staff and the
17 intervenors will file by the 27th.

18 MR. HARVEY: You know, I think -- assuming some
19 surrebuttal, we could -- we would be ready to go to
20 hearing pretty shortly thereafter.

21 JUDGE RILEY: That's -- that was my feeling.

22 Mr. Hird, do you know whether or not

1 you'll have surrebuttal or do you anticipate it or is
2 there anyway to gauge it?

3 MR. HIRD: Whatever we need to file, we will
4 file promptly. So let's -- don't hold up this
5 hearing because of our response.

6 JUDGE RILEY: All right.

7 MR. HIRD: And is your Honor available the week
8 of August 30th through September --

9 JUDGE RILEY: I --

10 MS. HERTEL: Your Honor?

11 JUDGE RILEY: Yes?

12 MS. HERTEL: Just -- just one point.

13 I mean, last time we got a fairly
14 lengthy piece of testimony; and I'm not -- late. And
15 I'm sorry, Mr. Hird. I'm not saying you'll do it
16 late this time, but we -- we had, even under the
17 other schedule, only -- less than 48 hours to look at
18 21 pages plus several fairly complex exhibits.

19 So if they are intending to file
20 surrebuttal, I think I would request a few days to at
21 least look at what they're filing.

22 MR. HARVEY: I mean, I think we -- we can go

1 that week if they -- well, we'll be filing. If we
2 file the 27th --

3 JUDGE RILEY: The following Thursday is
4 September 2nd.

5 MR. HIRD: Your Honor, my response to that is
6 whatever Staff needs in terms of time after they --
7 to digest surrebuttal, I have no objection to; but
8 remember that the intervenors were allowed to
9 intervene on the basis of them not requesting
10 additional time.

11 MR. HARVEY: Well, I mean, we would obviously
12 want to look at whatever you file. You know --

13 MR. HIRD: True.

14 I'll tell you what. Whatever we will
15 file, if we have in hand the Staff and intervenor
16 testimony on Friday, August 27th, we'll work the
17 weekend; and we'll have whatever we need to file on
18 file and in their hands by Tuesday the 31st.

19 MR. HARVEY: Okay. Well, then we'd -- we'd
20 be -- if that's the commitment, we could go --

21 JUDGE RILEY: Would the parties be amenable to
22 a Friday hearing?

1 MR. KOCH: Your Honor, this is --

2 JUDGE RILEY: Yeah. Bob, go ahead.

3 MR. KOCH: I have testimony in a very

4 significant case due on Friday the 3rd.

5 MR. MADIAR: Right. And I'm on that, as well.

6 MR. KOCH: I'll probably be the lead witness in

7 that case.

8 JUDGE RILEY: What I'm aiming for was to try to

9 get this in before Labor Day.

10 MR. KOCH: Yes.

11 MR. HARVEY: Well, could we -- let's --

12 JUDGE RILEY: But if the --

13 MR. KOCH: I'll tell you what. If we could

14 move this that week before Labor Day, we'll have it

15 on file Monday.

16 MR. HARVEY: Okay. Well, jeez. Then we

17 could -- we could try to go Thursday. I think that

18 will be okay, Bob. I'll work with you late on

19 Thursday on your Level 3.

20 MR. KOCH: And I actually have imputation.

21 MR. HARVEY: Oh, imputation?

22 MR. MADIAR: Yeah.

1 MR. HARVEY: Oh, okay.

2 MR. KOCH: I hope I'm not involved in Level 3.

3 MR. HARVEY: Oh, man. I don't even have that

4 in my book.

5 MR. KOCH: I think Mark is involved.

6 MR. HARVEY: All right. No, that's okay.

7 MR. HIRD: Your Honor, did I hear that we might

8 have a hearing on the 2nd of September?

9 JUDGE RILEY: Yes.

10 MR. HIRD: Why time would you like that?

11 JUDGE RILEY: I have a matter up at 10:00. So

12 could we start at 11:00?

13 MR. KOCH: That's fine.

14 MS. HERTEL: Oh, I'm on vacation.

15 JUDGE RILEY: I'm sorry?

16 MS. HERTEL: I was planning to be on vacation

17 that week.

18 JUDGE RILEY: Oh, brother.

19 MS. SCHROLL: This is Marci Schroll for the --

20 the other Staff member.

21 I have a meeting that day out of town,

22 Bloomington, at 10:30.

1 MR. HARVEY: Well, can we --

2 JUDGE RILEY: Well, Mr. Hird, I don't see how

3 we're going to be able to coordinate all of these

4 people if we've got vacations and witnesses not

5 available.

6 MR. HIRD: Yeah. This is a nightmare.

7 JUDGE RILEY: I know.

8 MR. HIRD: Well, Ms. Hertel, I'm --

9 MS. HERTEL: I think I heard Staff say she had

10 a conflict on the 2nd -- a meeting out of town.

11 MR. HARVEY: Let's see. All right. Can people

12 do the 7th and 8th?

13 MR. HIRD: I guess.

14 MS. HERTEL: Can we make it the 8th?

15 JUDGE RILEY: I've got another matter coming up

16 at 10:00 o'clock on the 8th. So we --

17 MR. KOCH: I'll be in Atlanta on the 8th.

18 How about the 7th?

19 MS. HERTEL: I can't do the 7th.

20 MR. KOCH: 7th is good for Springfield.

21 MR. HIRD: Is it Ms. Hertel the one who said

22 she has something else on the 7th?

1 MS. HERTEL: Yes.

2 JUDGE RILEY: She's unavailable.

3 MR. HIRD: I don't -- I don't mean to be
4 presumptuous, but I'm guessing SBC has a -- you know,
5 a bevy of lawyers.

6 MS. HERTEL: Well, they may have a bevy of
7 lawyers, but not a bevy who have worked on this
8 matter.

9 MR. HIRD: Okay.

10 MR. DOUGHERTY: And with all due respect, your
11 Honor -- I mean, the reason we're looking at our
12 calendars is because of Applicant's desire to
13 supplement their data request.

14 JUDGE RILEY: Okay. Let's --

15 MR. DOUGHERTY: So, you know, a day here or a
16 day there shouldn't mean that much.

17 JUDGE RILEY: Yeah. This is not unusual when
18 you're trying to coordinate the schedules of six,
19 seven people.

20 MR. DOUGHERTY: Yeah.

21 MR. HIRD: You're Honor?

22 JUDGE RILEY: Yes?

1 MR. HIRD: This is the Applicant, Rick Hird.

2 The problem I have is that from the
3 8th on through the rest of the week, I'll be in
4 Atlanta; and I won't be available.

5 JUDGE RILEY: All right. Which is going to --

6 MR. HIRD: And I'd really like to have this
7 concluded before then. If we need to tighten up the
8 schedule previous to that and go the week of the
9 23rd, we can certainly do that.

10 JUDGE RILEY: The week of --

11 MS. HERTEL: The 23rd of August.

12 MR. HIRD: Yeah. We're at the 6th now. We
13 could go back to having our supplemental data request
14 responses and testimony and everything in by, you
15 know, Wednesday, the 11th, and see if we can move
16 this up. I would far prefer that.

17 JUDGE RILEY: Does Staff and intervenors still
18 want two weeks?

19 MS. HERTEL: I would like two weeks, your
20 Honor.

21 MR. HARVEY: You know, I think we're going to
22 need -- you know, we're looking at new stuff. So I

1 think we will need at least, you know, 14 days.

2 MR. HIRD: Two weeks?

3 Your Honor, last time we had the --
4 with the previous schedule, as I recall, we gave
5 Staff, what, a week to file supplemental.

6 If we have our data request responses
7 and testimony on file by Wednesday, the 11th, then
8 could we have Staff and intervenors -- if they would
9 agree to move this up to one week instead of two -- a
10 full week ought to be enough.

11 JUDGE RILEY: What I'm looking at -- let me
12 propose this:

13 Mr. Hird, if you get your filings in
14 by the 11th --

15 MR. HIRD: Yes.

16 JUDGE RILEY: -- I'm going to set Friday, the
17 20th, for the intervenor and Staff responses.

18 MS. HERTEL: Your Honor, my witness is out of
19 town on a prepaid family vacation. I'm willing to
20 give up my vacation, but I'm not going to ask my
21 witness --

22 JUDGE RILEY: All right.

1 MS. HERTEL: -- who is my subject-matter expert
2 to give up a prepaid family vacation for his
3 children.

4 JUDGE RILEY: I'm sorry. He will be gone
5 that --

6 MS. HERTEL: He will be gone from the 14th
7 through the 21st.

8 JUDGE RILEY: Okay. All right, then.

9 MR. HARVEY: I think --

10 MS. HERTEL: I mean, I would just, also, with
11 the risk of sounding argumentative -- I mean,
12 Mr. Hird is choosing to do this. For a certification
13 proceeding, where you're basically starting with
14 amended testimony, to try to cram this all into 30
15 days, it's not -- I mean, this isn't --

16 MR. HIRD: And, your Honor, in my defense, this
17 application was filed May 20th.

18 JUDGE RILEY: I understand. I understand.
19 Let's -- let's put all of that aside.

20 Well, as far as I'm concerned then,
21 we're back to the 13th, the 27th -- Mr. Hird, I think
22 we're going to -- might as well allow you a couple of

1 extra days to get any surrebuttal that you want in
2 because I just don't see how we can get these
3 schedules coordinated any earlier -- certainly not
4 prior to Labor Day. It's just -- I just -- it
5 doesn't look possible. The witnesses aren't
6 available, attorneys aren't available.

7 MR. HIRD: And the 7th -- is the 7th available
8 for hearing?

9 JUDGE RILEY: Ms. Hertel said that she's not
10 available.

11 MR. DOUGHERTY: Could we just agree to have the
12 hearing on the 14th -- September 14th?

13 MR. MADIAR: He has an evidentiary hearing.

14 JUDGE RILEY: 13th.

15 MR. MADIAR: The 13th is the same thing -- MCI
16 arbitration.

17 MR. HARVEY: Do you know what? There's three
18 other people on that.

19 JUDGE RILEY: All right. Hold on.

20 MR. HARVEY: Do you know what? Here's what
21 we'll do: We'll find a way to fit this in, you know.
22 Lannon and Sean can handle some of that stuff.

1 JUDGE RILEY: Okay.

2 MR. HARVEY: There are like 18 people on that
3 case. So I'll cut out of there and do this for a
4 couple of hours and go back.

5 JUDGE RILEY: Let me -- Mr. Kaufhold, we
6 haven't heard much from you. Is this --

7 MR. KAUFHOLD: Those schedules should be fine,
8 Judge. I could make a rebuttal testimony in those
9 time frames.

10 JUDGE RILEY: Okay. Mr. Dougherty, are you
11 speaking for the other attorneys for the intervenors,
12 Mr. Woods and Mr. Helmholtz?

13 MR. DOUGHERTY: Yes.

14 JUDGE RILEY: Okay. So we don't have to
15 coordinate them, as well, do we?

16 MR. DOUGHERTY: Well, they'll listen to me, I
17 think, on this. So --

18 JUDGE RILEY: Okay.

19 MR. DOUGHERTY: -- if we agree to the 13th and
20 14th, I think that's okay with my attorney,
21 Mr. Staff

22 JUDGE RILEY: All right.

1 MR. HARVEY: And staff can do that.

2 JUDGE RILEY: 13th?

3 MR. HARVEY: Either day. We'll make -- we'll

4 find a way to get here.

5 JUDGE RILEY: All right. Then that's

6 apparently why we're -- the date that we are going to

7 have to settle on then.

8 Mr. Hird, I don't know -- just don't

9 see how we can possibly do this any earlier.

10 MR. HIRD: Okay.

11 MS. HERTEL: Do they have a preference as to

12 the 13th or 14th?

13 JUDGE RILEY: I'm going to set it for the 13th.

14 Let's do did it earlier rather than later.

15 And, Mr. Hird, that means that when

16 you originally send it, you can have your -- your

17 surrebuttal on the 30th. I imagine you can take an

18 extra couple of days on that now.

19 MR. HARVEY: Sure.

20 MR. HIRD: All right.

21 JUDGE RILEY: So if you want to push it back to

22 like Thursday, the 2nd, that would still give

1 everybody plenty of time.

2 MR. HARVEY: Yeah. That would -- that would be
3 more than satisfactory.

4 JUDGE RILEY: But that's -- unfortunately,
5 that's just the harsh reality. There just isn't any
6 other way to coordinate this many schedules in such a
7 short time.

8 MR. HARVEY: And believe me, this is not the
9 first time we've run into this by prevailing
10 standards.

11 JUDGE RILEY: Well --

12 MR. HIRD: Your Honor?

13 JUDGE RILEY: Yes?

14 MR. HIRD: I hate to -- I hate to make one more
15 complication, but I've got to ask, I'll be
16 traveling -- if we have this on Monday the 13th, I'll
17 have to go straight from Atlanta to Chicago; and I
18 really would like to have a little bit of time to
19 prepare. I hate to do this to my own client, but is
20 the 14th available?

21 JUDGE RILEY: 14th?

22 MR. HARVEY: That's fine.

1 JUDGE RILEY: Let's go back to the 14th.
2 That will be at 10:0 a.m.
3 MR. HIRD: September 14th, 10:00 a.m.?
4 JUDGE RILEY: Right.
5 MR. HIRD: Okay.
6 JUDGE RILEY: Now, I'm reticent to ask, but I
7 think I have to. Is there anything else that we have
8 to deal with?
9 MR. WOODS: You're Honor?
10 JUDGE RILEY: Yes?
11 MR. WOODS: Don Woods down in Springfield.
12 The only question I had in the one
13 matter that hasn't been raised, and the transcript
14 doesn't give me the answer, are we going to be
15 provided with copies of the supplemental data
16 requests and the current discovery order?
17 I'd make an oral motion right now on
18 the record that we be provided a copy of whatever
19 they send.
20 MS. HERTEL: Don, I think that's a -- that's a
21 good point.
22 When we had served our data request,

1 we -- on Ramsey, we had asked for copies
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1 of staffing that they had provided to Staff; and
2 I'm not sure if we said that was ongoing. So I would
3 agree with you to the extent if there's any
4 confusion, I guess I would also like to make an oral
5 request --

6 MR. HARVEY: Yeah.

7 MS. HERTEL: -- that they provide us with the
8 copies as well.

9 MR. HARVEY: And I believe that, you know, if
10 there's confiden- -- I just better not talk anymore.

11 If there are confidentiality issues,
12 maybe the parties could enter into an agreement of
13 some sort.

14 MR. HIRD: Your Honor, this is the Applicant,
15 if I may.

16 We would be glad to provide copies of
17 anything that we don't consider to be proprietary and
18 confidential and handle it exactly the same as we did
19 before.

20 JUDGE RILEY: All right. Is that satisfactory?

21 MS. HERTEL: Yes, your Honor.

22 JUDGE RILEY: Okay.

1 MR. WOODS: And it's satisfactory, but I would
2 like some type of indication that a document was
3 provided to Staff and not provided to us.

4 MR. HIRD: Yes.

5 MS. HERTEL: Yeah. That's what I think the
6 last discovery showed, and we had sort of avoided the
7 issue because none of us followed up on motions to
8 compel, you know, or asked for proprietary agreement;
9 but we would, of course, reserve the right to do so
10 depending upon what, you know, is shown to Staff.

11 MR. WOODS: I'm sorry, Ms. Hertel. I can't
12 hear what you're saying.

13 MS. HERTEL: I'm sorry. I guess I'm too far
14 from the speaker.

15 What I said was, last time, when you
16 had provided some materials to us, you had indicated
17 that some of them were proprietary; and you were not
18 providing them to us, and I don't think any of the
19 parties or intervenors pursued a proprietary
20 agreement or would challenge that; but we would
21 reserve the right to either approach you on a
22 proprietary agreement, if we wanted to see it, or

1 depending upon what your response was in motion to
2 compel.

3 MR. WOODS: Well, as long it doesn't delay our
4 hearing date.

5 JUDGE RILEY: Now, the only other thing that I
6 wanted to bring up, are witnesses going to be
7 appearing telephonically?

8 MR. HIRD: The applicant will be appearing in
9 person, your Honor.

10 JUDGE RILEY: All right.

11 MS. HERTEL: SBC Illinois intends to appear in
12 person.

13 MR. HARVEY: It would be -- you know, I would
14 assume that the Staff is prepared to appear in
15 person. However, you know, it would be obviously
16 your preference.

17 JUDGE RILEY: All right. For the purposes of
18 hearing, and it's much -- much easier, from my
19 standpoint, if witnesses are present in the --
20 court -- in the hearing room.

21 MR. HIRD: Your Honor, this is Kevin Kaufhold
22 from St. Clair.

1 Our witness would probably be
2 appearing telephonically. We're -- we're down in the
3 St. Louis area.

4 JUDGE RILEY: Okay.

5 MR. HARVEY: Well, I mean, I think -- why don't
6 we see, first of all, who we actually need to
7 cross-examine.

8 JUDGE RILEY: All right.

9 MR. HARVEY: It may not be anybody that we
10 actually -- you know, there may be some people
11 that -- you know, based on Mr. Forshi's (phonetic)
12 testimony to date, I'm not sure I have any reason to
13 cross-examine him. I think we may want to see
14 what -- how the testimony shakes out. We may not
15 even have to have -- this may not be a bridge we need
16 to cross.

17 JUDGE RILEY: All right. So in other words, it
18 might be premature just to bring him?

19 MR. HARVEY: Yeah.

20 JUDGE RILEY: All right, then.

21 Well, why don't we leave it at that,
22 then. We have the dates that we have discussed, and

1 we are set to go to hearing on September 14th at
2 10:00 a.m.

3 MS. HERTEL: Thank you, your Honor.

4 JUDGE RILEY: Is that it?

5 MR. HARVEY: Nothing from the Staff, your
6 Honor.

7 JUDGE RILEY: Anything further from Mr. Hird?

8 MR. HIRD: No, your Honor. I just want to make
9 sure I'm confirming these dates correctly.

10 August 16th is the date for
11 supplemental date request responses, amended Ramsey
12 testimony and Hickson testimony?

13 Staff and intervenors are going to
14 file supplemental testimony by August 27th?

15 JUDGE RILEY: Right.

16 MR. HIRD: Ramsey will file surrebuttal
17 testimony by September 2nd?

18 JUDGE RILEY: Correct.

19 MR. HIRD: And the hearing is September 14th?

20 JUDGE RILEY: At 10:00 a.m. That's correct.

21 MR. HIRD: Okay.

22 JUDGE RILEY: All right, then. I think we've

1 covered everything we can, then.

2 Thank you very much.

3 (Whereupon, the above-entitled
4 matter was continued to
5 September 14, 2004, at
6 10:00 a.m.)

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